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Michigan House of Representatives
House Judiciary Committee
Hon. John Walsh, Chairman
Anderson House Office Building
124 North Capitol Avenue
P.O. Box 30014
Lansing, MI 48909-7514

To the Members of the Committee:

My name is Michael Jardine. I am a constituent and I vote. I am highly interested in the work the Judiciary Committee does and I appreciate being able to speak today or give this letter. I am humbled by watching democracy in action here today and again, I thank you for this chance. I truly am grateful.

I also would like this committee to know that I am an ex-felon. I am unemployed. I have no money. I have nothing saved for retirement. If it were not for Medicaid, the Veteran's Administration and the fact that I am an Honorably Discharged combat veteran, I would have no medical insurance. I live in a mobile home with my wife-to-be, three daughters, 19, 13 and 16 months old and a female yellow Labrador Retriever named Bailey.

Through the past four congressional sessions, there has been an attempt by various members of both chambers to amend the 1965 law concerning eligibility requirements for the expunction of criminal records.

As you know, under current state law, a person may only have one conviction, whatever the type (excluding certain traffic offenses or serious, vile crimes) and be eligible to ask the sentencing court to expunge or set-aside that conviction. In light of the times, that law has been seen by many as archaic, perhaps even Draconian in nature. It has built a hurdle so high, few, if any, could clear it.

As proposed, both SB 159 and HB 4106 seek to amend the law so that more people, their families and their communities may benefit when a person is relieved from most of the collateral consequences for crime the debt for which has long since been paid. There are many deserving of redemption and these proposals do seek to help with that. For this, their sponsors in both chambers should be lauded for their efforts. It is about time the law was amended.

That said, in its current form, I cannot, in good conscience, support SB 159 because it will allow only those whose ancillary crimes were committed when they were under 22 years of age.

Anyone older, such of myself, will not be able to use this law as it is proposed.

Any law, no matter how well intentioned, that proposes to put one class or age of people above another *should be anathema* to a democratic society. Case-in-point: if this law is passed in its current form, it is saying, in effect, that the life of a 21 year old is more worthy of civil redemption than mine, not because of the nature of the crime to be expunged or set aside, but simply because of age. Conversely, it is saying that due to my age, I am unworthy of any consideration this legislature might give me.

It is also saying, in effect, that even if the crime that the much younger man was convicted of was much more severe than what my conviction was for, it is, for this purpose, somehow easier on the conscience to relieve his burden because of his youth. He gets a chance at mercy. I do not simply because of my age. I am 45 years old.

At a one day bench trial in January, 2004, I was convicted of Larceny in a Building (MCL 750.356). I was convicted of stealing a video projector from GVSU. In my case, no eyewitness testified I was the thief. Not one witness said I was the man they saw. There was no physical evidence connecting me to the crime. Two unannounced physical searches of my home did not turn up the missing item. Last summer, I found out that there is a high probability the serial number for the item they said I took does not exist for the make and model of projector they said was stolen. I can prove all that I have said, right here and right now. Last but not least, the Judicial Review Board of GVSU, over a year after my conviction, unanimously ruled that I was **not responsible** for violating the Student Code Theft/Vandalism regarding the theft of the projector. They even knew I came to that hearing already convicted. I tell you that because it is important to me that this body knows that I am not some crackpot coming to you with some crazy innocence claim. There were other people in an official capacity that thought so, too.

Now, simply because of the dollar value of the item stolen, the crime I was convicted of was a felony. Because I also have a \$150 misdemeanor conviction, I cannot avail myself of current Michigan law. If SB 159 is allowed to pass in its current form, I will not be able to avail myself of it, either. Yet, the younger man gets a shot at redemption? This makes no sense to me at all.

Can anyone explain this to me? Is the younger man more valuable to society and therefore, more worthy of redemption? If that is so, what about my family? Are my children of less value, too? Do they deserve to have a lower standard of living because of a property crime committed long ago and the debt paid in full? Must the loving, gracious and beautiful mother of my children forever hang her head in shame over a crime that the only usable record of is in a computer database? Even the Judicial Review Board of GVSU did not think I did it and it absolved me of the crime. Unless I can get a pardon or a set-aside, however, I cannot move forward because with every job application or interview I have, I am forced to relive my shame. Because I know I am innocent of this, it is a shame I cannot readily bear. Sometimes, I am so sad, I wonder how I get up.

My family is on food stamps. I want to work, but it is getting harder for anyone to find work in this state. For an ex-felon, it is even harder. Furthermore, with laws being created right here in this place that purport to "protect the innocent" by precluding ex-felons from many occupations

that have nothing to do, whatsoever, with their conviction, the State has made it even more difficult, if not impossible, for an ex-felon to support himself, more or less his family. For example, in 2010, a law precluding convicted felons from entering the healthcare field (where there are critical shortages of nurses) until 15 years from their conviction was passed. I cannot even apply to a nursing school. I wanted to be a teacher. That dream is gone, too.

Despite a state law precluding a licensing agency from using the conviction record of a person as the *sole* reason for turning down a license application, a law was passed that grants and exception to that law. Now an ex-felon, whatever his crime, can never get a license to sell insurance.

I have an Associate of Arts degree, a Bachelor of Arts degree, about 85% of a Bachelor in Science degree and I am working on the second of two certificates, one of which was paid for by the state via the No Worker Left Behind Program. All told, I have about 250 or more credit hours of higher education. With a felony conviction, all of my education is for nothing. Unless someone hires me (which they will not) there will not even be a return on the investment made in me by the state.

This situation is hard enough for a guilty man to handle. Can this committee imagine, just for a moment, what my life is like because I know, and so do others, that I am innocent?

If I was also given the opportunity HB 4106 allows, I could make such a better life for me and my family. I could also contribute so much more to my community than I can now. Everyone in this scenario is losing here, not just me and mine.

I also believe that, in its present form, the SB 159 may be unconstitutional because it might violate the Equal Protection Clause of the 14th Amendment of the United States Constitution. Please understand, I am not stating for a fact that it is, but, surely, it could appear that way. It is my belief that a law, such as this, cannot benefit one class of people to the detriment of another when the *only* basis for that bias is the age of the former felon. Age, like the color of a person's skin, cannot be changed. It would be highly offensive to anyone if the standard used for SB 159 stated that only a specific race, gender or religion could avail themselves of it. In reality, how is age any different than any of those things?

Even if it isn't unconstitutional, again, I believe that it does endorse one part of our population to the detriment of the other.

Please, as I wrote Rep. Oakes, the sponsor of HB 4106, I beseech you to do whatever is possible to remove the age requirement from SB 159 before it is sent to the governor.

Respectfully submitted,

Michael Jardine